

REMARKS

This amendment is responsive to the Office Action dated June 9, 2004. In this communication, Applicant has amended claims 7 and 43, and added new claims 57-99. Claims 1-99 are pending upon entry of this amendment.

Claim Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-10, 12-20, 22-31, 33-43 and 48-56 under 35 U.S.C. 103(a) as being unpatentable over Trilli et al. (U.S. Patent Publication 2003/0028762) in view of Seiden (U.S. Patent Publication 2002/0038293). Applicant respectfully traverses the rejection.

Applicant respectfully submits that neither Trilli et al. nor Seiden qualify as prior art against the Applicant's claimed invention under 35 U.S.C. 103(a). Section 103(a) prior art includes references under 35 U.S.C. 102(a). Section 102(a) states: "A person shall be entitled to a patent unless—(a) the invention was . . . patented or described in a printed publication in this or a foreign country, *before the invention thereof by the applicant for patent*" (emphasis added).

In formulating the rejection, it appears the Examiner overlooked Applicant's claim of priority in the present application. In particular, the priority date of Applicant's pending application, i.e., the constructive date of invention, precedes that of Trilli et al. and Seiden. Applicant's pending application is a continuation of application No. 09/634,149, filed on Aug. 8, 2000, now Pat. No. 6,658,394, and therefore claims Aug. 8, 2000 as its priority date. The priority date of Trilli et al. is Jul. 31, 2001, nearly one year later. The priority date of Seiden is Mar. 30, 2001, also postdating Applicant's priority date. As a result, Applicant's claims may not be rejected on the basis of Trilli et al or Seiden.

Therefore, the Examiner has failed to establish a prima facie case for non-patentability of Applicant's claims 1-10, 12-20, 22-31, 33-43 and 48-56 under 35 U.S.C. 103(a). Withdrawal of this rejection is requested. Claim 7 was amended to correct a typographical error.

Allowable Subject Matter

In the Office Action, the Examiner indicated that claims 11, 21, 32 and 44-47 are allowable in their present form, and objected to claims 11, 21, 32 and 44-47 as including subject

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matter that would be allowable if rewritten in independent form. Applicant has elected not to rewrite these claims in independent form as the Examiner has failed to establish a prima facie case for non-patentability of the base claims as set forth above.

New Claims:

Applicant has added claims 57-99 to the pending application. No new matter has been added by the new claims.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

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